

# Exhibit 16

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*

Civil Action No. 07-10248-PBS

Exhibit to the July 24, 2009, Declaration of James J. Fauci  
In Support of Plaintiff's Motion for Partial Summary Judgment and  
In Opposition to the Roxane Defendants' Motion For Partial Summary Judgment



experience *does* matter

**CASE: Commonwealth of Massachusetts v. Mylan Laboratories, et al.**  
**DATE: November 30, 2007**

Enclosed is the Original of the transcript of the testimony of **Patricia Kay Morgan** along with the errata sheet in the above-titled case. Please have the witness read the deposition and sign the signature page before a Notary Public.

After the signature page has been notarized, please return the original transcript and errata sheets to the custodial attorney within 30 days of receipt for proper filing.

Thank you for your attention to this matter and please feel free to contact us with any questions or concerns.

Sincerely,

Henderson Legal Services

Encl.

Henderson Legal Services  
Phone: 202-220-4158  
Fax: 202-220-4162  
Website: [www.hendersonlegalservices.com](http://www.hendersonlegalservices.com)

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

THE COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

vs.

CIVIL ACTION NO.

MYLAN LABORATORIES INC.;

03-CV-11865-PBS

BARR LABORATORIES, INC.;

DURAMED PHARMACEUTICALS, INC.;

IVAX CORPORATION; WARRICK

PHARMACEUTICALS CORPORATION;

WATSON PHARMACEUTICALS, INC.;

SCHEIN PHARMACEUTICALS, INC.;

TEVA PHARMACEUTICALS USA, INC.;

PAR PHARMACEUTICAL, INC.;

DEY, INC.; ETHEX CORPORATION;

PUREPAC PHARMACEUTICAL CO.; and

ROXANE LABORATORIES,

Defendants.

\_\_\_\_\_/

VIDEOTAPED DEPOSITION OF PATRICIA KAY MORGAN

Taken on Behalf of the Defendant

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1  
2 VIDEOTAPED DEPOSITION OF PATRICIA KAY MORGAN  
3 Taken on Behalf of the Defendant  
4  
5

6 DATE TAKEN: November 30, 2007  
7 TIME: 1:07 p.m. - 5:12 p.m.  
8 PLACE: Sivyer Barlow & Watson,  
9 P.A.  
10 401 East Jackson Street  
11 Tampa, Florida  
12  
13

14 Stenographically Reported by:  
15 Donna L. Peterson  
16 Registered Diplomat Reporter  
17 Certified Realtime Reporter  
18  
19  
20  
21  
22

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1           A.     Are you talking about the labeler ID used  
2     in the NDDF file, the six-digit alphanumeric  
3     number? Or what are you referring to?

4           Q.     The markup was last changed.

5           A.     Not to my knowledge.

6           Q.     Okay. I'm going to represent to you that  
7     with regard to Exhibit 005 through 010, for the  
8     labeler ID numbers that we highlighted and went  
9     through with regard to Exhibit 010 and the  
10    defendants' names identified in this case, that for  
11    every year for those labeler ID numbers, the markup  
12    that's entered in the markup file is 1S. What does  
13    1S mean?

14          MR. DUEFFERT: Objection to form. Strike --  
15    motion to strike the side-bar.

16          THE WITNESS: Looking at the NDF markup table,  
17    if a "1 x S" is entered in a markup field, it would  
18    mean that the number that's used to populate the  
19    SWP field should be multiplied times one and be  
20    used to populate the Blue Book AWP field.

21    BY MR. MULLIN:

22          Q.     Now, I believe you said in -- on direct

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1 examination that manufacturers could not determine,  
2 did not control what the Blue Book AWP field was  
3 with regard to the NDDF. Is that right?

4 A. That's correct.

5 Q. And if a manufacturer throughout this  
6 10-year period always had a markup of 1S, whatever  
7 number it provided to First DataBank would be the  
8 number that would appear in the Blue Book AWP  
9 field; is that correct?

10 MR. KATZ: Objection as to form.

11 THE WITNESS: That's correct.

12 BY MR. MULLIN:

13 Q. Okay. Now, you joined the company in  
14 1999, correct?

15 A. That's correct.

16 Q. And that you have no way of knowing how  
17 the markup number that was in the table when you  
18 joined the company, how that was derived, correct?

19 A. That's correct.

20 Q. And you have no recollection sitting here  
21 today as to whether you ever conducted a wholesaler  
22 survey with regard to any of the nine defendants in

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